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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PETER SANTILLI, )  
 )  
Defendant. )  
\_\_\_\_\_ )

2:16-cr-00046-GMN-PAL

**MOTION FOR BILL OF  
PARTICULARS**

Defendant, PETER SANTILLI, by and through his attorney of record, Chris T.  
Rasmussen, Esq., submits the following Motion For Bill of Particulars.

DATED this 9th day of May, 2016.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
CHRIS T. RASMUSSEN, ESQ.  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**Rule 7(f) Timeliness Statement**

This motion is not brought within the 14 days as set forth in Fed R. Crim. 7 for the following reasons.

Defendants are allowed to submit a request for a bill of particulars at a later time if the court permits. *See United States v. Brown*, 179 F.Supp. 893 (E.D.N.Y. 1959) (exercising discretion to permit an out of time motion). Counsel for Santilli was recently appointed. Second, Discovery has not been produced to the Defendant. Third, this is an extremely complex case as the amount of discovery is voluminous and the government has prosecuted Santilli in two districts simultaneously.

**Factual Summary**

Santilli was indicted on February 17, 2016, in which he was charged in Count One-Conspiracy in violation of 18 U.S.C. 371, Count Two-Conspiracy to Impede or Injury a Federal Officer in violation of 18 U.S.C. 372, Counts Three, Six, Nine & Fifteen-Use and Carry of a Firearm in Relation to a Crime of Violence in violation of 18 U.S.C. 924c, Counts Four & Five-Assault on a Federal Officer in violation of 18 U.S.C. 111, Count Seven & Eight-Threatening a Federal Officer in violation of 18 U.S.C. 115, Counts Ten through Twelve-Obstruction of the Due Administration of Justice in violation of 18 U.S.C. 1503, Counts Thirteen & Fourteen-Interference with Interstate Commerce in violation of 18 U.S.C. 1951 and 2. Count Sixteen-Interstate Travel in Aid of Extortion-in violation of 18 U.S.C. 1952.

Santilli never possessed or had a firearm in his control. Santilli is being prosecuted for speech that is protected under the First Amendment. The Government

1 concedes that the theory of prosecution is unlawful speech. It is uncontested that  
2 Santilli was not at the wash where the BLM and citizens came together.

3 **Argument**

4 The purpose of the indictment is to sufficiently inform the accused of the nature  
5 of the charges against him, to enable a defendant to prepare for trial, to prevent  
6 surprise and to interpose a plea of double jeopardy

7 Rule 7(f) of the Federal Rules of Criminal Procedure gives a court the authority  
8 to direct the filing of a bill of particulars by the government. In 1966, Rule 7(f) was  
9 amended to eliminate any requirement that the defendant make a showing of cause.  
10 See Fed. R. Crim. P. 7 advisory committee's note (1966 amendment). A bill of  
11 particulars is "intended to supplement the indictment by providing more detail of the  
12 facts upon which the charges are based." *United States v. Inryco, Inc.*, 642 F.2d 290,  
13 295 (9<sup>th</sup> Cir. 1981). By providing a defendant with the specifics of the charge, a bill of  
14 particulars serves three purposes: (1) to aid a defendant in preparing for trial; (2) to  
15 eliminate surprise at trial; and (3) to protect against double jeopardy. *United States v.*  
16 *Burt*, 765 F.2d 1364, 1367 (9<sup>th</sup> Cir. 1985).

17 The indictment in the above case does not satisfy the above standard in that it  
18 does not detail all of the speech in which Santilli is on trial. Additionally, as a person in  
19 the media, Santilli was engaged in as a purported co-conspirator, including but not  
20 limited to the agreement or the conduct expected from this defendant which would  
21 establish his membership in a conspiracy. Reporting the activities of the BLM or  
22 advocating a position on "ThePeteSantilliShow" does not rise to the level necessary to  
23 create unlawful speech.

1 The indictment relies upon generalized statements which does not inform Santilli  
2 of the specific conduct alleged. The conduct of Santilli is not outlined other than the  
3 broad statement that he conspired with known and unknown people.  
4

5 The two questions for the government to respond to are as follows:

- 6 1. Detail all of the speech that the Government is claiming is unlawful;
- 7 2. Detail how Santilli can be an organizer or support a conspiracy as a member  
8 of the media that is recording the events that unfolded on April 9 and 12<sup>th</sup> of 2014;
- 9 3. Which episodes of the Pete Santilli Show contain unlawful speech that is  
10 being prosecuted.  
11

12 We request that the above questions be answered by way of a bill of particulars.

### 13 **Conclusion**

14  
15 It is respectfully submitted that this Court should grant Defendant Santilli's  
16 Motion for a Bill of Particulars.

17 DATED this 9<sup>th</sup> of May, 2016.

18 /s/ Chris T. Rasmussen

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